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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

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SEP 5 1 21 PM '95

The Honorable Reed E. Hundt  
Chairman  
Federal Communications Commission  
1919 M Street, N.W., Room 814  
Washington, DC 20554

Re: Ex Parte Presentation

Petition for Rule Making Filed by  
Pacific Bell Mobile Services  
Regarding a Plan for Sharing  
the Costs of Microwave Relocation (RM-8643)

Dear Chairman Hundt:

We are alarmed that the rights of our microwave clients are being prejudiced by recent, baseless complaints of PCS trade associations regarding the Commission's 2 GHz relocation rules. The Cellular Telecommunications Industry Association (CTIA) and the Personal Communications Industry Association (PCIA) appear to be devoted to undermining at all costs the Commission's well-established microwave relocation rules, which were adopted after nearly three years of deliberation in Gen. Docket No. 90-314 and ET Docket No. 92-9. Inasmuch as some relocations already have been concluded -- and the A and B Blocks already have been auctioned -- it would be entirely inappropriate for the Commission to revisit the relocation rules at this point. There simply is no reason, at this late stage, for the Commission to change the rules.

The entire reallocation scheme was designed by the Commission to protect incumbent microwave licensees while introducing a new, emerging technology into this band. Recognizing that microwave systems are used for the safe and efficient delivery of energy services, electric services and transportation services, as well as for police, fire, and other public safety services, the Commission determined "... that the [relocation] process not disrupt the communications services provided by existing 2 GHz fixed

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microwave operations." Third Report and Order, ET Docket No. 92-9, 8 FCC Rec ¶ 13 (1993). The current gradual transition rules were adopted as "the least disruptive means for accommodating new emerging technology services in this spectrum." Id.

CTIA and PCIA now are trying to change the ground rules for the relocation, to slant the process entirely in favor of the PCS industry. They would have the Commission believe that PCS licensees -- not the displaced microwave licensees -- are somehow the unfortunate "victims" of this relocation.

After three years of countless pleadings, et parte visits, Congressional input and the like, the Commission soundly concluded that the early phases of these negotiations must be voluntary. During the voluntary period, ". . . the parties are encouraged to negotiate and reach agreement on relocation, but are not required to do so." Id. at ¶ 15.

The Commission also correctly concluded that during the voluntary phase of the negotiations, the parties must be free to agree to whatever terms and conditions are mutually satisfactory. Likewise, microwave licensees such as electric utilities, oil and gas pipelines, railroads and public safety entities, must remain free, during the "voluntary" period, to decline to disrupt their normal business operations for PCS negotiations.

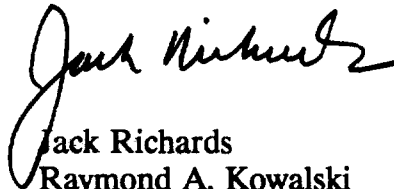
Negotiations between PCS licensees and microwave incumbents have only just begun. Some microwave incumbents already have concluded their relocations, based upon mutually agreeable terms and conditions. It would be patently unfair to microwave incumbents, who have based their business plans and conducted their negotiations to date in good faith reliance upon the existing regulatory standards, to change the rules in mid-stream. Moreover, there is no reason why, at this late date, the relocation rules should be fundamentally changed in favor of the PCS industry, thereby increasing the value of the already-auctioned spectrum and enabling the A and B Block winners to receive an unjustified windfall at the expense of the U.S. Treasury.

The Commission has done a commendable job establishing a solid and workable negotiation plan for the introduction of PCS into congested microwave bands. Despite the PCS industry's protestations to the contrary, the two-phased voluntary and involuntary periods provide an excellent regulatory paradigm. The transition framework should not be upset simply because certain PCS trade associations would prefer a completely PCS-friendly system.

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We appreciate your attention to this important issue and look forward to discussing our concerns with you in person. Meanwhile, should you have any questions, please feel free to contact the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Richards". The signature is fluid and cursive, with a large initial "J" and a stylized "R".

Jack Richards  
Raymond A. Kowalski  
John Reardon

cc: The Honorable James H. Quello  
The Honorable Andrew C. Barrett  
The Honorable Susan Ness  
The Honorable Rachelle B. Chong  
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